

STATE OF MICHIGAN
COURT OF APPEALS

In re MURPHY, Minors.

UNPUBLISHED
July 19, 2016

Nos. 331172 & 331217
Grand Traverse Circuit Court
Family Division
LC No. 15-003941-NA

Before: MURRAY, P.J., and SAWYER and METER, JJ.

PER CURIAM.

In these consolidated appeals, respondents, parents of minors SM and MM, appeal as of right from an order of the family division of the circuit court terminating their parental rights to the children. The court terminated respondent-mother's parental rights under MCL 712A.19b(3)(g) (failure to provide proper care or custody) and (j) (children will likely be harmed if returned), and terminated respondent-father's parental rights under MCL 712A.19b(3)(g) and (a)(ii) (parent has deserted the child). In both cases, we affirm.

I. FACTS

Petitioner filed a petition for child protective proceedings that set forth respondents' history of child protective proceedings in Georgia and Texas, domestic violence between respondents, respondent-mother's substance abuse, and respondent-father's lack of contact with the children. The children were first removed from respondents in Texas after respondent-mother was arrested for assaulting police officers.

At the adjudication, respondent-father, testifying by telephone, stated that he and respondent-mother never married but lived together for several years. He testified that respondent-mother's abuse of alcohol and other drugs, and also her manipulative behavior and emotional volatility, caused him to fear for the safety of the children.

Respondent-mother testified that she was the victim of domestic violence while living with respondent-father, and admitted that the disciplinary style of her then-husband (a man other than respondent-father) concerned her. Respondent-mother further admitted to being arrested at a hospital because of her drunkenness and disorderly conduct, and also for interfering with a 911 call and disorderly conduct when one of her children called the police after she had been drinking. She additionally admitted to fraudulently obtaining and abusing pain medication.

A psychologist who evaluated respondent-mother testified that he learned from respondent-mother that she had a history of domestic violence, including with respondent-father, and also that substance abuse had been a problem for her since she was an adolescent. The psychologist added that respondent-mother indicated that her relationship with her then-husband was “strained,” and that she became upset when the husband would “get after the girls,” meaning become “strict” or “rough” with them, which led respondent-mother to resort to drinking. The psychologist concluded that respondent-mother suffered from chronic anxiety, was prone to depression, tended to be impulsive, and had “fragile” self-esteem. The psychologist opined that the children “need really competent parenting” and would “create emotional difficulties that would be difficult for most adults, much less an adult who tends to be anxious . . . and confused.” He credited respondent-mother for her openness in admitting to a history of substance abuse, but opined that “there [are] going to be times when she is going to be able to manage it . . . , but because of the tremendous anxiety and tension at some point she is not able to manage those feelings and turns to . . . alcohol or pills . . . in order to find some relief.” The parenting tests the psychologist conducted put respondent-mother “in the potentially abusive range on the child abuse potential inventory,” such that he regarded her as “at risk for being either abusive or neglectful.” The witness opined that “her ability to care for her kids will be suboptimal, and might be kind of wavering and inconsistent because of the defensive nature of her own disconnected thinking,” and agreed that respondent-mother’s combination of insecurity, anxiety, and substance abuse impacted her parenting and put her children at risk.

The jury found that respondent-mother failed to provide the children with necessary support, that she subjected the children to a substantial risk of harm to their mental well-being, and that the home environment was an unfit place for the children. The jury concluded that respondent-father abandoned both children. The trial court assumed jurisdiction over the children and suspended respondents’ parenting time. This Court affirmed the adjudications in an unpublished opinion issued earlier this year. *In re Murphy Minors*, unpublished opinion per curiam of the Court of Appeals, issued March 8, 2016 (Docket Nos. 329408 & 329498).

At the dispositional hearing that followed, counsel for respondent-father reported that the latter lived in Texas and would not be attending the proceeding. Petitioner advised the court that its “dispositional goal, request and recommendation is termination of parental rights for both parents” and that a termination hearing was scheduled to take place the following month.

At the termination hearing, a Michigan Child Protective Services (CPS) worker set forth respondents’ history of investigations relating to domestic violence, child neglect, and criminal activity, and reported that the family was referred to a parenting program and counseling at Pine Rest, a mental health service provider, but did not participate beyond the children’s attendance at three or four appointments. Asked why petitioner was seeking termination instead of reunification, the CPS worker explained that “the girls had been removed from their mother on two separate occasions before in Texas, and . . . we had offered her all the services that we had available and she hadn’t participated or benefited from those services,” and that “due to their age and the need for permanency . . . it was best that the girls find a more permanent placement.”

The worker further opined that respondent-father could not provide a living environment suitable for the children, citing reports from child protective services in Texas, and adding that the “huge problem” with respondent-father was that “we just couldn’t find him.” The witness

elaborated, "I spoke with his mother. I tried to call other people that would have had information about where he was. . . . [T]he girls hadn't had contact with him, so I had no way to find him and figure out what his current situation was at the time of the petition." The worker recommended termination of respondent-father's parental rights because "[h]e had not had contact with the girls for more than four years . . . and so they did not have a relationship or bond with him, and so I believe that having them go back to their father would be detrimental to their well-being," especially in light of "the reports in Texas regarding domestic violence and possible substance abuse."

A CPS investigator testified that respondent-mother admitted to once throwing a chair in the home while the children were present, and also to needing help with her parenting. The investigator reported that respondent-mother was referred to a social worker, but failed to follow up. The investigator added that concerns arose regarding respondent-mother's partner "becoming physical with the children," elaborating that the children reported that he had subjected them to dragging, grabbing, and spitting. According to the investigator, respondent-mother was again offered services, but she became confrontational and refused. The witness added that, only about a week before the termination hearing, he had encountered respondent-mother at her place of employment; she seemed not to recognize him, and he overheard her tell a coworker that she had "had fun the other night" and had "gotten drunk."

A CPS supervisor testified that the subject children loved their mother, but "in their words she was not capable of taking care of them." She added that she had spoken to respondent-father, who admitted to not having seen the children in four years and to not having spoken to them on the telephone in over two years. Asked if respondent-father had taken the initiative to contact her, the supervisor answered that he had not. The supervisor recommended termination, because "pretty much since birth these girls have been subjected to substance abuse, domestic violence, criminality, [and] overall instability," adding, "They are quite young and this would be their third time that they were in care."

A psychologist who was deemed an expert in psychology and who completed evaluations of the subject children testified that SM "talked about her mother having a pretty significant drinking problem," "reported physical abuse by [respondent-mother's then-husband] that mom was aware of," and stated "that her mother was really impaired from the alcohol consumption." The expert stated that SM described finding bottles hidden about the house, described respondent-mother's "stumbling and falling asleep," and stated that respondent-mother "had been aggressive and threw a small chair at her." The expert reported that SM was "severely distressed because of the problems that were occurring in the home" and had been subjected to psychiatric hospitalization, but had "settled down" since entering foster care.

The psychologist further reported that MM "indicated that if her mom was well that she would like to return, but [SM] . . . indicated she would like to see her mom after she turned 18 and her mom was sober" The expert added, "It's very clear that her attachment to her mother has been very severely disrupted in response to the problems that were occurring in that environment, and she was definitely clear that she did not wish to return home." The expert opined that were SM to be returned to respondent-mother, "you will see a resurgence in behaviors and problems and issues," and expressed concern that respondent-mother might not truly be in a state of recovery from alcoholism.

An attorney appeared at the termination hearing on behalf of respondent-father, but the latter did not participate personally, by telephone or otherwise.

After taking the matter under advisement, mainly out of fairness to respondent-mother, the trial court issued a lengthy opinion and order terminating the parental rights of both respondents. We will quote liberally from this opinion.

II. STANDARD OF REVIEW

An appellate court “review[s] for clear error both the court’s decision that a ground for termination has been proven by clear and convincing evidence and . . . the court’s decision regarding the child’s best interest.” *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000), superseded in part by statute on other grounds as stated in *In re Moss*, 301 Mich App 76, 83; 836 NW2d 812 (2013). A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Miller Minor*, 433 Mich 331, 337; 445 NW2d 161 (1989). A reviewing court must defer to the special ability of the trial court to judge the credibility of witnesses. *Id.*

III. RESPONDENT-MOTHER

A. STATUTORY GROUNDS FOR TERMINATION

Again, the trial court terminated respondent-mother’s parental rights under MCL 712A.19b(3)(g) and (j), which provide:

(3) The court may terminate a parent’s parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.

The trial court explained its conclusion in connection with the two statutory termination factors as follows:

Respondent Mother’s inability to provide proper care and custody for her children began in Georgia with her oldest daughter, [AD, for] which, pursuant to a Georgia court order, she has no custodial or parenting rights other than

therapeutic visitation. Upon information and belief, Respondent Mother has not exercised therapeutic visitation with [AD]. . . . [C]onsidering Respondent Mother's continued involvement with child welfare in Georgia with [SM and MM] in 2007, that she left the state of Georgia and moved to Texas, and that she never returned to Georgia, except for a short 90 day jail stint for violation of her 1993 felony drug probation, Respondent Mother did not make reasonable attempts to maintain a relationship with her eldest daughter.^[1]

With respect to [SM and MM], Respondent Mother's involvement with the child welfare services began in Georgia in 2007, followed her to Texas, resulting in two foster care placements, then to Michigan resulting in multiple CPS complaints and referrals for services and ultimately foster care placement of the girls and the filing of an original petition for termination of parental rights in 2015.

Respondent Mother has been offered or provided seven (7) years of services by child welfare agencies relating to substance abuse, domestic violence, mental health and parenting, and she has not been able to demonstrate that she can consistently engage in services or provide [SM and MM] with the necessary stability, safety and structure to provide for their mental or physical health.

Respondent Mother did not seek inpatient substance abuse treatment or outpatient counseling until the children were placed in foster care for the third time. Respondent Mother has been unable to maintain any sustained period of sobriety over the last nine (9) years, as evidenced by her repeated involvement with the criminal justice system related to substance abuse

The Court is not persuaded of Respondent Mother's sobriety by the passing of scheduled drug and alcohol screens, as there was testimony that Respondent Mother was overheard in October 2015 telling a co-worker that she drank to the point of intoxication at a party. Respondent Mother has also not participated in a twelve-step program as specifically recommended by the inpatient rehab program she attended.

[The psychologist who evaluated her] testified that Respondent Mother is severely impacted by substance abuse and she continues to externalize blame for her actions and addictions. Although moving toward accepting responsibility, after nine (9) years of repeated alcohol and prescription drug abuse, . . . it is questionable that Respondent Mother will be able to move beyond the contemplation stage in a reasonable time to care for her children. . . . Respondent Mother's own personal references had reservations about her ability to refrain

¹ The court noted that the doctrine of anticipatory neglect came to bear; we discuss this doctrine in Part IV-B of this opinion.

from substance abuse. . . . Respondent Mother’s outpatient therapist[] also could not confirm that Respondent Mother would be successful in her battle against substance abuse.

Respondent Mother’s substance abuse is further compounded by her mental health issues. Respondent Mother has been diagnosed with depression, chronic anxiety, and fragmented disconnected thinking. . . . Respondent Mother acknowledged at trial that she has not received consistent treatment for her own mental health issues. Respondent Mother did not follow through with consultations and referrals

* * *

It appears that Respondent Mother is never forthcoming with the whole story, even to those that provide her support and counsel. Health care providers involved with Respondent Mother and the children report her as “unreliable” and a “selective historian”. . . .

Respondent Mother has exposed [the subject children] to nine (9) years of domestic violence—both as a recipient and observer. . . .

[T]here is a repeated pattern of complaints related to domestic violence. The multiple incidents of emergency housing in women’s shelters, [the children’s] post-traumatic stress diagnoses, and [SM]’s aggressiveness resulting in a psychiatric hospitalization, raises considerable concern regarding the extent of the violence and instability in Respondent Mother’s home. Despite Respondent Mother receiving treatment on and off over a span of seven (7) years, the children have internalized and model Respondent Mother’s behaviors as illustrated by their own mental health symptoms and socially maladaptive behaviors

Respondent Mother has never demonstrated the ability to create a safe, nurturing and stable environment for her minor children for any appreciable length of time, which is evidenced by three (3) CPS removals of these children since 2007 and repeated encounters with [petitioner]. Respondent Mother has repeatedly failed to address and follow up with mental health care for herself and her children

[The evaluating] psychologist[] was very clear in his testimony that Respondent Mother was unfit to parent. Respondent Mother would provide “sub-optimal” care for the children and that they are at risk for abuse and neglect based upon Respondent Mother’s personality traits [and] insecure attachment to the children, and her own emotions interfere with her ability to process information to care for others. . . .

Respondent Mother has not provided a stable and secure environment for the last nine (9) years, and will never be able to provide the stability necessary to parent [SM and MM].

Due to her substance abuse, mental health issues, her inability to provide proper supervision and the emotional and mental harm already suffered by these children while in her care, the minor children would be at risk of harm if returned to Respondent Mother's care. Respondent Mother has yet to take full responsibility for her actions over the last nine (9) years, whether intentional or unable/unintentional, and there is no reasonable expectation that she will be able to provide proper care and custody within a reasonable time.

A parent's persistent failure to gain control over a substance-abuse problem is a ground for termination of parental rights. See *In re Conley Minors*, 216 Mich App 41, 44; 549 NW2d 353 (1996) (clear and convincing evidence of a failure to overcome alcoholism despite extensive treatment may justify termination of parental rights under § 19b(3)(g)). Respondent-mother emphasizes that there was evidence that she had finally conquered her alcoholism, but also acknowledges that a CPS investigator testified that she told a coworker of having indulged in drunkenness shortly before the termination hearing. Respondent-mother implies that the trial court erred in crediting the latter over the evidence favorable to her, but we defer to the trial court's superior ability to assess credibility. *In re Miller Minor*, 433 Mich at 337. The trial court did not clearly err in concluding that respondent-mother had yet to gain control over her substance-abuse problem and was not likely to do so in reasonable time. See *In re Dahms Minors*, 187 Mich App 644, 647; 468 NW2d 315 (1991) (discussing the concept of a "reasonable time").

Respondent-mother similarly implies that the trial court should have credited the accounts of witnesses who testified favorably in connection with her work ethic and commitment to sobriety, instead of those who expressed grave misgivings in the matter. However, it is not this Court's purpose to entertain alternative interpretations of the evidence presented; the test is whether the trial court's finding was clearly erroneous. MCR 2.613(C); *In re Trejo Minors*, 462 Mich at 356-357. Respondent-mother has not shown clear error merely by pointing out that some witnesses offered opinions contrary to those the court credited. See *In re Miller Minor*, 433 Mich at 337.

The trial court additionally noted respondent's poor record of participating in, or benefitting from, services made available to her in three states:

Respondent Mother has been provided services in the past through both the criminal justice system and child welfare system. She has never consistently participated in treatment outside of child protective services or criminal justice involvement. Respondent Mother continued to abuse substances and even engage in felonious acts to secure substances, despite prior outpatient treatment and an admission to detox (unsuccessfully discharged). [Petitioner] in Michigan has offered services to Respondent Mother over the course of two (2) years and Respondent Mother refused to accept or engage in any services. . . . [Petitioner] is not required to provide endless reasonable efforts under Michigan's child protective laws.

Failure to substantially comply with a court-ordered case service plan is evidence of risk to the child. *In re Trejo Minors*, 462 Mich at 346 n 3.

We conclude that the trial court did not clearly err in concluding that termination of respondent-mother's parental rights was warranted under MCL 712A.19b(3)(g) and (j).

B. BEST INTERESTS

“If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.” MCL 712A.19b(5). Although termination of parental rights requires proof of at least one of the statutory termination factors by clear and convincing evidence, “the preponderance of the evidence standard applies to the best-interest determination.” *In re Moss*, 301 Mich App at 83. In this case, the trial court explained its best-interests determination in connection with respondent-mother as follows:

While it is unquestionable that emotional ties exist between Respondent Mother and the minor children, [SM and MM] will benefit from a stable environment. They have witnessed Respondent Mother's substance abuse and were the recipients of violence which has gravely affected their mental health. Both girls recognize the instability in their Mother's home.

The girls have been in counseling to address the chaotic lifestyle and emotional turmoil experienced in Respondent Mother's care due to her substance abuse, emotional instability and continued involvement in domestic violence situations. [SM] has been hospitalized and takes medication due to mental health issues caused from her tumultuous home environment with Respondent Mother. . . . Neither Respondent Mother nor Respondent Father were able to provide consistent mental health counseling or psychiatric care for [SM and MM].

* * *

[The children] feel safe and have structure in foster care and have expressed the desire to stay forever in foster care. As a result of the desertion and abuse and neglect they experienced by Respondent parents, [SM and MM] exhibit behaviors and mental health symptoms that indicate they were not adjusted socially at school or in the home. . . . The maladaptive behaviors demonstrated . . . when they were first placed in foster care are substantially subsiding. . . . [SM and MM] cannot wait for the mere possibility of a radical change in Respondent Mother's life.

In challenging the trial court's best-interests determination, respondent-mother points out that some witnesses offered testimony favorable to her, thus implying that the court erred in giving greater weight to the testimony of other witnesses. Again, however, pointing out that there was variation in the accounts and opinions of the witnesses does not expose a trial court's credibility assessments as clearly erroneous. See MCR 2.613(C), *In re Trejo Minors*, 462 Mich at 356-357, and *In re Miller Minor*, 433 Mich at 337.

Respondent-mother also points out that the evidence indicated that strong bonds exist between her and the children, but acknowledges that the evidence also indicated that the children have been traumatized by events taking place in her home. Although respondent-mother correctly characterizes the evidence as indicating that the children wished for a continuing relationship with her, that evidence fell short of indicating that either child wished to return immediately to her care and custody. MM indicated that she would like to return to respondent-mother's home if the latter were "well." Because, as discussed above, the trial court did not clearly err in concluding that respondent-mother had not in fact achieved such personal reform, the court did not clearly err in concluding that the home with respondent-mother for which MM expressed a wish was not available to her. SM, in turn, stated that she wished for a relationship with respondent-mother only upon reaching her own majority, and upon respondent-mother's solidly achieving sobriety. SM thus joined her younger sister in wishing for a relationship with respondent-mother under circumstances not yet extant. In addition, the foster mother testified that SM stated that she "wants to live with us and stay with us" and that MM stated that she too wanted to stay in the foster home.

Respondent-mother further points out that an early foster-care placement did not end well for the children and suggests that her current home should be compared with that earlier placement. However, respondent-mother cites no authority for the proposition that a trial court comparing existing or proposed placements for purposes of determining children's best interests is obliged to consider a foster-care placement that is neither still in place nor contending for resumption.

For these reasons, respondent-mother fails to show that the trial court clearly erred in determining that termination of her parental rights was in the children's best interests.

IV. RESPONDENT-FATHER

Again, the trial court terminated respondent-father's parental rights under MCL 712A.19b(3)(g) and also under subsection (a)(ii), which calls for termination where a parent has deserted the child "for 91 or more days and has not sought custody of the child during that period."

A. SUBSECTION (3)(a)(ii)

The trial court explained its conclusion in connection with this statutory factor as follows:

Respondent Father admitted that he has not seen his children in four (4) years, since 2011, although he has made attempts to "keep track of them." He has not made any efforts to visit them, but did speak to them on the phone in 2013. He has not paid any child support. Respondent Father testified that he is employed, has housing, and sent gifts to the girls through his mother occasionally. While Respondent Father may have participated in some reunification efforts in 2010, he admitted that he "faltered" and became disengaged in the process.

Respondent Father has also failed to obtain assistance in regaining custody or parenting time for a period well beyond the 91 day statutory period, citing

unfamiliarity with his legal rights. At trial, Respondent Father blamed Respondent Mother, the child welfare agencies, and even the courts for his inability to participate in services or seek visitation and custody of his daughters. Respondent Father testified he was not even aware their [sic] was an order out of Texas prohibiting him from exercising parenting time. . . .

Respondent Father was well aware of the termination trial but made no effort to participate in person or by telephone. Respondent Father admitted he never contacted the child welfare agency or the court in Texas about any change of address. Moreover, Respondent Father had been informed by Respondent Mother that the girls were sexually abused in foster care and then placed back into the same foster home, but took no action to seek custody or protection for them.

Respondent-father does not take issue with any of these factual particulars, but instead argues that he simply elected to leave the children in the home of the parent better equipped to care for them, i.e., respondent-mother, who in turn erected barriers between him and the children, and that a Texas order specifically forbade him to spend time with the children.

As an initial matter, we note that respondent-father offers no timeline according to which any actual efforts to support, or interact with, the children prevented a 91-day period of desertion from accruing.

In arguing that he should not be faulted for leaving the children with respondent-mother, respondent-father relies on *In re Nelson Minor*, 190 Mich App 237, 241; 475 NW2d 448 (1991), where this Court held that “the placement by a parent of a child in a relative’s home where the child receives adequate care” does not constitute abandonment for purposes of triggering the court’s jurisdiction over the child. *In re Nelson Minor* offers no instruction with regard to the instant trial court’s finding that termination was warranted under MCL 712A.19b(3)(a)(ii), however, because, as noted in the appeal involving the adjudication, it is factually distinguishable. See *In re Murphy Minors*, unpub op at 2. Respondent-father’s lack of participation in this case after the adjudication presents no reason to revisit this Court’s conclusions in the earlier appeal.

Further, as the trial court noted, respondent-father had ample reason to doubt that respondent-mother was providing adequate care. He testified at the adjudication that he was concerned about respondent-mother’s substance-abuse problem, and also her manipulative behavior and emotional volatility, and that these things caused him to fear for the children’s safety. Although he professed optimism when the children were returned to respondent-mother after they were first removed to foster care, in light of respondent-mother’s participation in services and being subjected to monitoring, respondent-father also testified that he was aware that the children were thereafter removed again, but gave no indication that that development caused him to revisit, let alone act upon, his concerns for the children’s safety while in respondent-mother’s care. As this Court concluded in the earlier appeal, “the children’s home environment could no longer be assumed to be stable once they were removed. This calls into question respondent-father’s motivation and raises a reasonable question regarding why he did not attempt to obtain custody.” *Id.* at 3.

Respondent-father's protestations that respondent-mother, or various social-welfare authorities, prevented him from supporting, or spending time with, the children offer no mitigation, because respondent-father does not argue, let alone point to indications in the record to show, that he determinedly tried to assert his parental rights and fulfill his parental duties in the face of any such barriers.

Respondent-father offers as an exhibit a reproduction of a "final order affecting parent-child relationship" from a Texas court, which includes the provision that respondent "shall not have visitation with the children." As the trial court noted, however, respondent-father was not even aware that this order existed at first, and to that extent cannot suggest that the order itself interfered with his attempts to play a parental role in the children's lives. Further, we note that the first page of the order includes the statement that respondent-father, "although duly and properly notified, did not appear and wholly made default." Respondent-father's acquiescence in those Texas proceedings thus stands as additional evidence of his having deserted the subject children.

B. SUBSECTION (3)(g)

In explaining its findings in connection with this statutory factor, the trial court stated:

Respondent Father testified extensively at trial that he was aware that Respondent Mother had significant substance abuse issues, both alcohol and prescription drugs, that resulted in her blacking out, becoming belligerent, and "overwhelmed" while caring for the children. Respondent Father witnessed this behavior over a course of years from 2006 through 2009 that caused him to be concerned for . . . [SM's and MM's] safety, yet took no steps to protect the children from Respondent Mother.

Furthermore, Respondent Father has two older children that he has not seen or provided care for since 2009. The Doctrine of Anticipatory Neglect applies to Respondent Father's ability to provide proper care and custody for [SM and MM]. . . . [B]ased upon Respondent Father's lack of participation in reunification services in Texas in 2010 and abandonment of all of his children financially and emotionally, there remains no reasonable expectation that Respondent Father will be able to provide proper care and custody, within a reasonable time.

In challenging the trial court's reasoning, respondent-father reiterates his arguments relating to desertion, and protests that there was no evidence of how he was situated in terms of housing or employment in the several months preceding the termination hearing.

However, the fact that respondent-father left MM and SM in their mother's unfit home itself constituted a failure to provide proper care and custody, and respondent-father's satisfaction with that arrangement at the time, considered along with his continuing abandonment of the children, including by way of failing to attend or otherwise participate personally in the termination hearing, supported the trial court's conclusion that respondent was not likely to offer proper care and custody in a reasonable time.

Further, respondent-father does not attempt to challenge the trial court's invocation of the doctrine of anticipatory neglect, which recognizes that "[h]ow a parent treats one child is certainly probative of how that parent may treat other children." *In re LaFrance Minors*, 306 Mich App 713, 730; 858 NW2d 143, quoting *In re LaFlure Minor*, 48 Mich App 377, 392; 210 NW2d 482 (1973). The trial court's finding that respondent-father had abandoned two older children thus stands unchallenged, and likewise the court's inference from that earlier abandonment that respondent-father was not now likely to rally to provide a good home for the subject children.

We conclude that the trial court did not clearly err in concluding that termination of respondent-father's parental rights was warranted in accord with two statutory subsections.

C. BEST INTERESTS

The trial court found that termination of respondent-father's parental rights was in the children's best interests. It noted that the subject children were in counseling for emotional injury resulting from the "turmoil experienced in Respondent Mother's care due to her substance abuse, emotional instability and continued involvement in domestic violence situations," and that neither parent was able to provide the children with "consistent mental health counseling or psychiatric care" The court continued:

[SM and MM] have been deserted by Respondent Father. Neither of the girls have any bond with Respondent Father. . . . They only have vague memories of him. Respondent Father has never demonstrated any appropriate parenting techniques or the ability to parent with any of his four children

[SM and MM] feel safe and have structure in foster care and have expressed the desire to stay forever in foster care. As a result of the desertion and abuse and neglect they experienced by Respondent parents, [SM and MM] exhibit behaviors and mental health symptoms that indicate they were not adjusted socially at school or in the home. . . . The maladaptive behaviors demonstrated . . . when they were first placed in foster care are substantially subsiding.

In challenging the court's conclusions, respondent-father again does not challenge the factual particulars recited by the trial court, including that no bond existed between him and the children, but rather reiterates his arguments attributing his lack of support of, or relationship with, the children to interference on the part of respondent-mother, and also complains of petitioner's disinclination to offer him services or investigate whether placement of the children with him would have been appropriate. Again, however, respondent-father does not even argue that he struggled against respondent-mother's alleged efforts to keep distance between him and the children. Nor does he suggest that he ever sought assistance or cooperation from petitioner. Accordingly, we reject respondent-father's challenge to the trial court best-interests determination.

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Patrick M. Meter